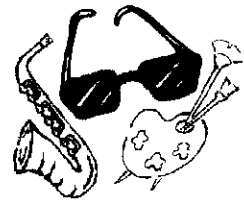


Friends In Art

of the American Council of the Blind



Reply To:

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Michael Byington, Advocacy Chair
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MAR - 5 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

March 1, 2002

TO: THE FEDERAL COMMUNICATIONS COMMISSION (FCC):
Attn. Mr. William Caton, Secretary

RE: DOCKET 99-339 / REQUIREMENTS FOR VIDEO DESCRIPTION FOR
TELEVISION

COMMENTS COMPILED BY A COMMITTEE COMPRISED OF:

Mike Mandel, President
Jeaniece Petersen, Past President
Michael Byington, Advocacy Chair and Board member
Gordon Kent, Recording Secretary
Roger Petersen, Board Member

Friends In Art (FIA) of the American Council of the Blind (ACB) is a membership organization affiliated with the ACB. Our membership is comprised of blind performance, visual, and literary artists who practice their art on a professional or amateur basis; blind patrons of the arts interested in arts and esthetics access; and family, friends, and interested arts professionals who have a commitment to access to the arts, and in the promotion and encouragement of blind artists.

The above purposes and missions give us ample interest in the areas of video description, descriptive video, audio description of video materials, and in this form of provision of access under any other title.

FIA supported the rule concerning video description, Docket 99-339. When comments were sought concerning it originally. In March of 2000, FIA came forward for a second time to defend the rule in the face of an onslaught of opposition and legal maneuvering initiated by groups such as: The National Association of Broadcasters, The National Cable Telecommunications Association, the Motion Picture Association of America, and the National Federation of the Blind (NFB). The NFB appears to be for sale to the highest bidder with regard to the issue of audio description of video programming. They are intent upon raising funds for new buildings for their headquarters, but the position they have taken on this issue certainly does not represent a majority view among blind and low vision Americans. Logically no intelligent,

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independently thinking human being advocates to restrict the amount of information which he or she may choose to have available.

Yet the organizations noted above have now filed, or expressed support for, a petition attempting to persuade the FCC to postpone the implementation of the order to require audio description of 50 hours of prime time video programming per quarter. The alleged logic of this petition is that a court appeal filed by the same organizations is pending and has not been resolved. FIA supports the implementation of the 50 hours of audio description of video programming rule, as scheduled. We oppose any petition which would serve to delay provision of description to provide informational access for Americans who are blind or low vision. FIA suggests that no irreparable harm would result from allowing the rule to be implemented on schedule, even if doing so means that the rule goes into effect before groundless court hearings take place on the issue.

The truth is that the NFB and its cronies who are in the financial aspects of the entertainment business realize that audio description of video programming is a means of providing equally effective communications. They know it will be an exponentially popular service if implemented, that it is quite doable, and that the implementation of the FCC order on schedule would only serve to clearly prove the groundlessness and pompous discriminatory aspects of the legal actions that have been filed.

Video description is an equivalent access accommodation to closed captioning. It is essential that the United States move forward with plans to make video description at least as prevalent as closed captioning.

We patently disagree with the comments of the NFB when they suggest that video description is not essential from the perspective of providing access to entertainment materials. The Federation seems to give unqualified support only for use of video description in terms of providing emergency information. While we might agree that an oncoming tornado or hurricane is more important than the color and cut of a period dress, or who did it in the most recent television mystery, it is essential that a situation be avoided where information access as it relates to entertainment is considered less an ultimate goal than information access regarding news or emergencies. Blind Americans have a right to equally effective communications with regard to ALL information. To suggest that it is acceptable for a government agency, the NFB, or the broadcast industry to decide what information is most important for blind and low vision citizens to have, and what they really do not need to know, is to engage in a repugnant and Un-American form of Censorship. We have, or will soon have, the technology to make available the provision of description information about ALL varieties of programming. This simply should and must be done.

We must express utter dismay at the raising of Constitutional arguments by some of litigants who have sued over the issue of description, and who now seek to forestall the implementation of the rule, based on interpretations of the First Amendment. The concept seems to be that video description changes the nature of the artistic endeavor and therefore limits the freedom of speech of the artist or artists who created the original product. Video description is voluntary. The SAP channel, which is the electronic vehicle that carries the descriptive information, can be turned on or off depending on whether the audio description tract is desired. Video description does not change the nature of the initial art product. Video description provides simply a style of presentation of the art work. It is no different than the physical surroundings of a museum which may be presenting a show of fine master paintings. The environment makes a difference in the perception and enjoyment of the art, but the environment does not become the art.

The valid Constitutional argument is that several court decisions have made it clear that blind or other communications disabled individuals should not expect to experience less equally effective communications accommodations based on the purpose or content of those communications. To cause such a situation when the technology and means exists to remedy it is to cause undue censorship of materials to which the blind need access. Such censorship is quite clearly a violation of the First Amendment.

We are also concerned that the FCC has not addressed issues of access with regard to equipment design as it relates to accessible controls allowing blind Americans to activate the SAP feature on modern television sets, and access other menu driven features necessary to benefit fully from new, and particularly digital, television design. If the SAP is to be essential in choosing to use or not use video description, then blind people must readily have access to operate SAP related television controls. Non-talking, on screen menus do not allow for such access. These issues are not fully addressed through Section 255 of the Telecommunications Act. Not all television functions are considered to be a product of telecommunications.

Band width and SAP allocations, as digital is developed, must make certain that there is adequate room for video description. More profitable uses of the SAP should not be allowed to squeeze out access accommodations such as video description.

In our discussion with some of our members who are blind performance artist, we are informed that these individuals depend on descriptions of clothing, style, and demeanor of television performers in order to know what is in vogue, what is within acceptable limits of behavior, what is selling, etc. Any person who is blind and who is attempting to blend well in to the society of our country must learn details concerning snapshots of what the mainstreamed press and entertainment media consider to be societal norms. For sighted individuals, right or wrong, good or bad,

television is one of the most active exponents of these social facts and consequences. Blind Americans are asking for equal access, nothing more. As video description can be implemented and media part of our culture, requirements must be in place to make this the description start happening NOW.

FIA also feels that as the video description development and rulemaking process moves forward, it will be essential for the FCC to go beyond the solicitation of comments. FIA recommends that the FCC also establish an advisory body consisting of blind and visually impaired media savvy professionals and consumers to provide advice regularly throughout the process of developing and increasing description.

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